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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

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AZ CORP COMMISSION
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Arizona Corporation Commission
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IN THE MATTER OF THE PETITION OF
COLUMBUS ELECTRIC COOPERATIVE, INC.
FOR A DECLARATORY ORDER.

DOCKET NO. E-01851A-11-0415

PROCEDURAL ORDER

BY THE COMMISSION:

On November 18, 2012, Columbus Electric Cooperative, Inc. ("Columbus" or "Cooperative") filed a Petition for Declaratory Order with the Arizona Corporation Commission ("Commission") in which it requested expedited retroactive approval of certain secured loan applications and mortgages and a Declaratory Order confirming the inapplicability of A.R.S. §§ 40-301, 40,302 and 40-285.

The Petition was bifurcated into two Phases, with Phase I addressing approval of the financing request, and Phase II addressing the Declaratory Petition. On May 18, 2012, the Commission resolved Phase I by issuing Decision No. 73156 which approved Columbus' request for retroactive approval of the three loans.

On February 28, 2013, Columbus filed a Motion for Procedural Order in Phase II. Columbus reported that the parties believed that based on the Commission's Decision in a similar request filed by Garkane Energy Cooperative, Inc., this matter could be resolved after filing affidavits and briefs.¹

By Procedural Orders dated March 14, 2013 and April 1, 2013, a briefing schedule was established.² Columbus filed its Initial Brief on April 4, 2013, and attached the Affidavit of Mr. Chris Martinez, Executive Vice President and General Manager of CEC. Staff filed its Responsive Brief on April 29, 2013, recommending approval of Columbus' Petition. Columbus did not file a

¹ See Decision No. 72175 (February 11, 2011) In the Matter of the Petition of Garkane Energy Cooperative, Inc. ("Garkane Decision").

² Although adopting the parties' proposed process, the parties were put on notice that additional pleadings or proceedings may be required.

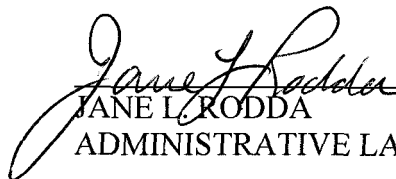
1 Reply Brief.

2 Both Columbus and Staff relied on the Commission's Garkane Decision. In the Garkane
3 Decision, one of the facts upon which the Commission relied was the review and approval process
4 that Garkane's financial transactions received from the Utah PSC.³ In contrast, the relevant New
5 Mexico statutes cited by Columbus appear not to require the Cooperative to seek New Mexico Public
6 Regulation Commission ("NMPRC") review when the Cooperative borrows from federal lenders
7 pursuant to the Rural Electrification Act of 1936.⁴ Therefore, it is not clear whether the NMPRC's
8 regulation of Columbus is comparable to the Utah PSC's regulation of Garkane. The record in the
9 instant case requires to be supplemented to include information about the process and degree of state
10 oversight, and how such oversight may affect the Commission's analysis of whether Arizona's
11 exercise of jurisdiction is appropriate. At a minimum, additional facts concerning NMPRC's process
12 for overseeing Columbus' borrowing from federal and non-federal lenders are needed. In addition,
13 the parties should also address whether, or how, any differences in the regulatory approaches between
14 Utah and New Mexico affect the analysis of whether Arizona should exercise jurisdiction over
15 Columbus pursuant to A.R.S. §§ 40-301, 40-302 and 40-285. In order to determine a timeframe for
16 supplementing the record, and the possible need for an evidentiary hearing, a telephonic procedural
17 conference will be set.

18 IT IS THEREFORE ORDERED that a **telephonic procedural conference** shall commence
19 **on August 2, 2013 at 10:30 a.m.**, or as soon thereafter as is practical, at the Commission's **Tucson**
20 **Offices, Room 218, 400 W. Congress St., Tucson, Arizona 85701**. To participate, parties should
21 call the toll free conference line 1-888-450-5996, Participant Code 457395#.

22 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
23 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

24 DATED this 25th day of July, 2013.

25
26 
JANE L. RODDA
ADMINISTRATIVE LAW JUDGE
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28 ³ Decision No. 72175 at 19.

⁴ See New Mexico Statutes Section 62-6-6, NMSA 1978.

1 Copies of the foregoing mailed
2 this 25th day of July, 2013 to:

3 Charles C. Kritek, General Counsel
4 Columbus Electric Cooperative, Inc.
5 PO Box 631
6 Deming, NM 88031-0631

7 Janice Alward, Chief Counsel
8 Legal Division
9 ARIZONA CORPORATION COMMISSION
10 1200 W. Washington Street
11 Phoenix, AZ 85007

12 Steven Olea, Director
13 Utilities Division
14 ARIZONA CORPORATION COMMISSION
15 1200 W. Washington Street
16 Phoenix, AZ 85007

17 ARIZONA REPORTING SERVICE, INC.
18 2200 N. Central Avenue, Suite 502
19 Phoenix, Arizona 85004-1481

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By 
Jane L. Rodda